

DETERMINATION AND FINDINGS
FOR
SOLE SOURCE CONTRACT MODIFICATION

Agency: Department of Consumer and Regulatory Affairs (DCRA)
Contract No.: CW40436
Caption: Professional Licensing Project
Contractor: Pearson VUE, a business of NCS Pearson, Inc.

Findings

1. Authorization

D.C. Official Code §2-354.04, 27 DCMR 1304, 1700, 1701, and 2005.2(b)

2. Minimum Need

The Office of Contracting and Procurement, on behalf of the Department of Consumer and Regulatory Affairs (DCRA), Occupational and Professional Licensing Administration (OPLA) is seeking to extend the current contract with Pearson VUE, a business of NCS Pearson, Inc. for an additional twelve (12) months to provide technical, managerial and administrative services to facilitate DCRA's licensing operation function to avoid a disruption in services during the six-month period the replacement contract CW39305 is expected to be under review by the Contract Appeals Board (CAB) and for an additional six-months' transition to a replacement contractor for conversion to a new replacement Professional Licensing system. The twelve-month Option Year One requirement will be added to the existing nine-month Base Period contract.

3. Estimated Fair and Reasonable Cost

The estimated price to provide the required services for the period October 1, 2016 through September 30, 2017 at \$2,275,000.00 is fair and reasonable, based on current contract unit pricing and projected volume of transactions.

4. Facts that Justify a Sole Source Procurement

A. The replacement contract for Professional Licensing, CW39305, is currently under protest and is awaiting the decision by the CAB. As a result, this proposed Sole Source - contract CW40436 - is needed for additional twelve-month period of October 1, 2016 through September 30, 2017.

The following is Chronology of CW39305:

3/4/15 Assigned Contract Specialist (CS) created solicitation WS120493/Doc197170 in the Office of Contracting and Procurement's (OCP's) Procurement Automated Support System (PASS).

3/10/15 OCP Legal provided Legal Sufficiency Review.

3/11/15 OCP requested DCRA to provide input to Legal issues and questions raised by OCP Legal.

3/12/15 OCP requested the Department of Small Local Business Development (DSLBD) for an update on the 2/26/15 request for locating SBEs for the professional licensing solicitation.

3/20/15 In a telephone conversation with DCRA the CS discussed DSLBD requirements for Small Business Enterprise (SBE) participation in the procurement for professional licensing services.

3/23/15 The CS received DCRA's input on legal issues raised by OCP Legal.

4/29/15 The CS submitted two documents: Responses to OAG Comments and the updated RFP to the Contracting Officer (CO) for review.

4/29/15 The CS requested DSLBD for an update on their SBEs' search.

4/30/15 The CS submitted two documents: Responses to OAG Comments and the updated RFP to DCRA for their review prior to sending to the Office of Attorney General (OAG) for their review and approval.

5/1/15 CS provided DSLBD with draft version of the RFP to determine if any SBEs could participate in the procurement, as prime or subs.

5/11/15 CS requested DSLBD for available SBEs and CBEs to be invited to Professional Licensing solicitation.

5/11/15 CS received from DSLBD a list of CBEs to be invited to the solicitation.

5/11/15 CS received DCRA's final ok for any changes in the RFP, prior to sending to OAG.

5/12/15 CS sent final RFP and Responses to legal issues to OAG for legal sufficiency review.

5/13/15 CS delivered hard copy of the RFP to OAG, as requested.

5/13/15 The Office of Risk Management (ORM) completed their insurance requirements review, with two items to be added to the insurance clause.

5/18/15 Received Legal Sufficiency approval from OAG and notified DCRA.

11/19/15 CO received Pearson email protest notification from Breana Ware of Alston & Bird LLP: Attached please find Pearson VUE's Protest from Exclusion of Solicitation Doc19170, and related documents, which was electronically filed earlier today, November 19, 2015 (CAB Docket No. P-0997). A hard copy will also be delivered to your office this afternoon for your convenience.

11/23/15 Received 11/20/15 Memo from OAG on required procedures for handling the Pearson protest.

12/1/15 Requested DCRA Director's Signature for DF Sole Source Contract CW40436 with Pearson for the period 1/1/16 - 6/30/15 to continue professional licensing services while CW39305 was under protest with CAB. The existing contract CW22673 was expiring on 12/31/15.

12/2/15 Obtained DCRA Director's Signature for DF Sole Source Pearson 1/1/16 - 6/30/16 contract.

12/2/15 In quickbase CS updated the Waiver Request Memorandum for CW40436 from transition of services to new contractor to read continuation of Professional Licensing services until the new contract CW39305 is awarded.

6/13/16 In OAG's update on the protest, the Office indicated filing a motion in January 2016 to close the record and that they have not heard anything from the Board since.

7/15/16 The CS requested OAG for another update and the response was to the effect that there was no change.

8/5/2016 There has been no further action or update on CW39305.

- B. The Office of Contracting and Procurement expects to award a new contract for these services on or before October 1, 2017.
- C. A sole source contract extension is the most advantageous method of fulfilling the District's need while completing the competitive procurement process and to allow for a transitioning period from existing vendor to new vendor. A market survey was not conducted because Pearson VUE, a business of NCS Pearson, Inc. has agreed to continue services based on existing contract pricing.

5. CERTIFICATION BY THE AGENCY HEAD:

I hereby certify that the findings set forth above are true, correct, and complete to the best of my knowledge and that the proposed contract extension is in the best interest of the District of Columbia.

Director
Department of Consumer and Regulatory Affairs

Date

6. CERTIFICATION BY CONTRACTING OFFICER:

I have reviewed the above findings and certify that they are sufficient to justify the use of the sole source method of procurement under the 27 DCMR 1304, 1700, 1701 and 2005.2(b). I certify that the notice of intent to award a sole source contract was published in accordance with Section 404(c) of the District of Columbia Procurement Practices Reform Act of 2010 (D.C. Official Code §2-354.04). I recommend that the Chief Procurement Officer approve the use of the sole source procurement method for this proposed contract.

Deborah J. White
Contracting Officer
Office of Contracting and Procurement

Date

DETERMINATION

Based on the above findings and in accordance with the cited authority, I hereby determine that it is not feasible or practical to invoke the competitive solicitation process under either Section 402 or 403 of the District of Columbia Procurement Practices Reform Act of 2010 (D.C. Law 18-371; D.C. Official Code § 2-354.02 or 2-354.03). Accordingly, I determine that the District is justified in using the sole source method of procurement.

George A Schutter, III
Chief Procurement Officer
Office of Contracting and Procurement

Date